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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,691	02/03/2005	Ingolfur Arnason	3535-0137PUS1	8521

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EXAMINER

WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
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1794

NOTIFICATION DATE	DELIVERY MODE
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10/09/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/523,691	Applicant(s) ARNASON ET AL.	
	Examiner Anthony Weier	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005 and 10 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/3/05 and 6/17/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112, 2nd

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in that it is not clear what is meant by "drop-shaped aluminum beam" and how it relates to the conveyor belt/freezer.

In claim 12, it is not clear as to what and why "22, 23, 24" are recited, and it should be noted that use of numerical identifiers in claims is permitted only as long as the claims would be understandable even without them.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 09-28284.
4. JP 09-28284 discloses a process wherein fish fillets are produced by first cutting head and tail of the fish and then longitudinally cutting same into two pieces wherein same has been frozen wherein it is considered inherent that the frozen portion of the

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fish pieces includes a frozen shell, such freezing inherently increasing the shelf-life of the fish and, therefore preserving same wherein such action further inherently slowing or halting microorganism growth and chemical changes due to enzyme activity.

Moreover, as called for in claim 11, it is inherent that by freezing said fish, less liquid is lost since the internal liquids once frozen will no longer drip. Said fish then being submerged in water wherein the surface is softened and bones and skin are subsequently removed. JP 09-28284 is silent regarding the use of a particular freezer with conveyor and specific fishing that employs both blow and touch freezing. However, it is considered inherent that the convey belt used in a freezer would inherently provide the touch portion of freezing whereas the cold air within said freezer would facilitate essentially blow freezing. As for the use of a conveyor with drop-shaped aluminum cross beams as set forth in the instant claims, it is not seen where same would provide for a patentable distinction, and it would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated said conveyor with aluminum materials and specific design as a matter of preference depending on the particular conveying system readily available and/or the cost of same. It should be further noted that by removing skin and bones in essentially one step, it is expected that the value of the fish is increased due to the reduction in work required as well as reduction in fish waste which would inevitably otherwise occur.

The claims further call for manual removal of leftover bones. Since it is well known to remove bones from fish manually, it would have been further obvious to have manually removed the remaining bones as an art recognized method step.

The claims call for freezing to a particular temperature and speed freezing to a particular depth of said fish. However, such determination would have been well within the purview of a skilled artisan, and it would have been further obvious to have arrived at such amounts through routine experimental optimization.

5. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eide taken alone or together with Vogt.

Eide discloses an apparatus comprising device for removing skin and bones from fish fillets by using a conveyor belt, electronic controlling mechanisms, roller (freezing drum), knives, spooler shaft (driving the roller drum), and inherently a guide for positioning the bones in the fillet (via said roller drum as it compresses the fish between the belt and the drum itself).

It should be further noted that the instant claims call for said apparatus to include cooling means comprising a conveyor belt having openings for airflow wherein the conveyor belt and fish fillet may be cooled. Eide further discloses a belt having openings (see Figure 1) capable of airflow therein wherein during treatment with the freezing drum both the fish fillets and conveyor belt are exposed directly and indirectly to cooling via the contact and close proximity of said drum. Nevertheless, if it is shown that Eide does not disclose same in the manner contemplated by the instant claims as recited, then it should be noted that after processing said fish, it would have been obvious to one having ordinary skill in the art at the time of the invention to have further frozen or fully frozen the treated fish as an art recognized means for preserving same. Vogt teaches an apparatus for freezing fish including a mesh belt conveyor

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having openings available for airflow to cool the fish and, inherently, the conveyor. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided such added device to Eide immediately after said skinning step or after additional fish preparation steps to provide an end product which is not only skinned and deboned (to some degree) but also fully frozen for transportation and storage.

The claims further call for the presence of a sensor. Sensors are notoriously well known and conventionally used in the art of automation. Since Eide employs electronic controlling, it is expected that same would naturally incorporate sensors to function. In any event, it would have been further obvious to have included such devices in the apparatus of Eide to provide more consistent treatment quality and reduce costs involved by minimizing the movements of the apparatus or reducing the need for human operators.

Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Tuesday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier
Primary Examiner
Art Unit 1794

/Anthony Weier/
Primary Examiner, Art Unit 1794

Anthony Weier
September 29, 2008